

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Inter-carrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No 03-109

REPLY COMMENTS OF HAWAIIAN TELCOM, INC.

I. **INTRODUCTION & SUMMARY**

HT hereby replies to the initial comments submitted in response to the FCC's recent *Public Notice* concerning the pending proposals for universal service and inter-carrier compensation reform.¹ In its comments on the *Public Notice*, HT advocated tailoring the proposed reforms to the special challenges of deploying advanced networks in Hawaii.² A number of other commenters, including the proponents of the ABC Plan,³

¹ *Further Inquiry Into Certain Issues In the Universal Service-Inter-carrier Compensation Transformation Proceeding*, FCC Public Notice DA 11-1348 (rel. Aug. 3, 2011) (the "*Public Notice*").

² Comments of Hawaiian Telcom, Inc. in WC Docket No. 10-90 *et al.* (filed Aug. 24, 2011) ("HT Comments").

³ Joint Comments of AT&T, CenturyLink, FairPoint, Frontier, Verizon and Windstream in WC Docket No. 10-90 *et al.*, 17 (filed Aug. 24, 2011).

the midsize telecommunications alliance ITTA,⁴ and the State of Hawaii,⁵ also support adoption by the Commission of special rules recognizing Hawaii as a unique, isolated state that historically has been both underfunded and especially difficult to serve. The extreme conditions of the state justify additional support not only for initial construction of broadband facilities but also for ongoing operating costs.

Though HT, as the only incumbent local exchange carrier (“ILEC”) in Hawaii, consistently has invested in statewide facilities that support both essential telecommunications services and advanced broadband-based services, HT receives inadequate high-cost support in its many rural service areas due to the anomalous “non-rural” classification of HT’s study area, which covers the entire state. Still, only the ILEC has a mandate to serve every customer in the state upon request, and it is the ILEC that is best positioned to deploy advanced broadband statewide. With adequate support targeted to the high-cost wire centers throughout the state, and an appropriate inter-carrier compensation structure that reflects the true cost of providing advanced services in Hawaii, HT would be able to deploy broadband throughout the state⁶ in the next ten years.

⁴ Comments of the Independent Telephone & Telecommunications Alliance, Cincinnati Bell Inc., Hargray Telephone Co., Inc., and Hickory Tech Corp. in WC Docket No. 10-90 *et al.*, 28-29 (filed Aug. 24, 2011) (“ITTA Comments”).

⁵ Comments of the State of Hawaii in WC Docket No. 10-90 *et al.*, 12 (filed Aug. 24, 2011) (“State of Hawaii Comments”) (“the Commission should create a special CAF [Connect America Fund] for insular areas of the United States and use that fund to address the compelling needs for broadband infrastructure in Hawaii, the Pacific Territories and other insular areas”).

⁶ HT estimates that, under its proposal, it would be able to provide broadband access at speeds of at least 4Mbps downstream to 95 percent of customers in the state within ten years. HT Comments at 19.

II. **DISCUSSION**

A. The Record Supports Targeted “Connect America” Broadband Funding For Hawaii As A Uniquely Isolated and Challenging State To Serve

In the *Public Notice*, the Commission seeks comment on whether the approach proposed by Alaska carrier General Communication, Inc. (“GCI”) would be warranted for Hawaii, and invites comment on other proposals relating to Alaska and Hawaii proposed in the record of these proceedings.⁷ The Commission appropriately asks what modifications to its national policy are warranted to better reflect conditions in Hawaii, Alaska, Tribal Lands, and U.S. territories.⁸ Many commenters support adoption by the Commission of special rules recognizing Hawaii and Alaska as unique, isolated states that historically have been both underfunded and especially difficult to serve.

The State of Hawaii points out in its comments the extreme isolation not only of Hawaii from the mainland, but also of the state’s individual islands from each other.⁹ The State affirms that Hawaii is “by far the most insular” of the states.¹⁰ The “extraordinarily difficult and expensive” challenges faced by carriers in deploying and maintaining communications services in Hawaii are confirmed by the State in its comments.¹¹ Therefore, Connect America Fund (“CAF”) support should not be limited

⁷ *Public Notice* at 9.

⁸ *Id.*

⁹ State of Hawaii Comments at 13.

¹⁰ *Id.* Though the State of Hawaii advocates a special Insular CAF for the U.S. Pacific Territories and Hawaii, HT takes no position on support for the Territories, which historically *have* had access to insular high-cost support, while Hawaii has not.

¹¹ *Id.* at 5 (providing communications services in Hawaii presents “engineering challenges that are arguably unsurpassed anywhere in the United States”).

to Tribal lands or Native populations.¹² ITTA notes, “Hawaii’s challenges are similar [to those faced by Alaska] and equally significant.”¹³

The record indicates that the inadequacy of middle-mile facilities is particularly a complicating factor to the availability of broadband communications capacity in Hawaii. For example, the State of Hawaii points out, “the construction and maintenance of middle mile broadband capabilities is one of the historical challenges facing Hawaii.”¹⁴ The lack of sufficient middle-mile capacity affects not only the availability to end-users of advanced wireline broadband capabilities but also the capability of *all* of the state’s wireless networks, which depend on wireline middle mile capacity for backhaul.¹⁵ Increased funding for broadband thus would support multiple networks, and improve both the diversity and the reliability of the state’s infrastructure.

B. The Record Supports Funding Operating As Well As Capital Costs For Broadband In Hawaii

As the State of Hawaii points out, the extreme conditions in Hawaii justify state-specific CAF support not only for initial construction of broadband infrastructure but also for ongoing maintenance and operating costs.¹⁶ A similar approach is advocated for carriers operating broadband networks in Alaska.¹⁷ The GCI Plan is premised on the

¹² *Id.* at 11-12 (“The creation of a Tribal Broadband Fund, however, is only the first step toward a comprehensive solution....[non-native communities] also face compelling need for communications infrastructure to support broadband and other communications services”).

¹³ ITTA Comments at 29.

¹⁴ State of Hawaii Comments at 11.

¹⁵ *Id.* at 10-11.

¹⁶ *Id.* at 11 (“the construction *and maintenance* of middle mile broadband capabilities is one of the historical challenges facing Hawaii”) (emphasis supplied).

¹⁷ ACS Comments at 16 & n.27 (citing prior comments of the Regulatory Commission of Alaska concerning the high operating as well as capital costs in the state).

uniquely costly and challenging operating conditions in Alaska and the comparatively thin deployment of either wireline or wireless broadband capability in Alaska;¹⁸ the same conditions prevail in Hawaii, as HT and others repeatedly have demonstrated.¹⁹

C. The ILEC Is Uniquely Positioned To Reach End-Users Throughout Hawaii, And Should Be Offered a ROFR For CAF In the State

Both Hawaii and Alaska are isolated from the other states, and both encompass many isolated communities within them, where broadband deployment simply has not been economically feasible, due to inadequate middle-mile facilities and the especially high cost of deploying and maintaining last-mile facilities in the state. As a result, both states have communities where unsubsidized competitive entry has not been economically feasible, and service is offered by one provider – the ILEC – which alone has responsibilities to serve all end-users as the carrier of last resort (COLR).

ACS proposes that Alaska ILECs should not be subject to any minimum broadband coverage requirement (such as 35% as proposed in the ABC Plan)²⁰ to qualify for a right of first refusal (“ROFR”) for broadband support.²¹ HT supports adoption of the same rule for Hawaii. Only the ILEC has ubiquitous, statewide facilities, and only the ILEC has been operating with a mandate to serve every customer in the state upon request.²² The ILEC, therefore, is uniquely positioned to deploy advanced broadband statewide. This is especially true in Hawaii, where HT

¹⁸ Letter from Chris Nierman to Marlene H. Dortch in WC Docket No. 10-90 *et al.*, filed Aug. 1, 2011 (the “GCI Plan”); *see also Public Notice* at 9.

¹⁹ *See, e.g.*, State of Hawaii Comments at 5-6 (citing prior comments of HT and Sandwich Isles Communications, Inc.).

²⁰ ABC Plan, Att. 1, 6.

²¹ ACS Comments at 4, 16 & n. 26.

²² *Id.* at 15 & n. 26.

plans to upgrade its inter-island links to bring more advanced services to remote communities such as on Molokai and Lanai.²³

Time Warner Cable (“TWC”) is wrong when it states that ILECs “face no special obligation to offer broadband to rural consumers” and should not qualify for a ROFR.²⁴ In Hawaii, TWC is the dominant cable television system operator. While neither HT nor TWC has an obligation to deploy *retail* broadband capability, HT must deploy voice telecommunications capability to end-users on request, even to the most rural and remote parts of the state. In addition, *only* HT must provide wholesale service upon request by another telecommunications carrier – such as the special access service that HT provides under tariffed terms to competitive wireline and wireless carriers. For this reason, the State of Hawaii observed that all of the wireless carriers in the state depend on wireline backhaul.²⁵ TWC has no such obligations to serve the entire state indifferently. Moreover, HT alone is in a position to leverage the statewide reach of its voice network to provide advanced broadband communications capabilities throughout Hawaii, provided it has access to a reasonable amount of additional funding.

²³ HT Comments at 17.

²⁴ Comments of Time Warner Cable Inc. in WC Docket No. 10-90 *et al.*, 18 (filed Aug. 24, 2011).

²⁵ State of Hawaii Comments at 10-11. HT notes that, although the State has ambitious plans to deliver 1 Gbps throughout Hawaii, residential broadband still will require a COLR to invest in last-mile facilities into every local neighborhood. HT already has infrastructure in these areas that can be leveraged to help bring ubiquitous service, as proposed by the Governor’s Broadband Initiative. HT believes that most Hawaii residents would find 4 Mbps more than adequate, given the current limits of broadband capability in the state.

As observed by GCI, with scale comes efficiency,²⁶ and HT has a network that covers the entire state, albeit limited to narrowband service in many locations at present, due to the lack of funding for broadband middle mile and last mile facilities. With appropriate CAF support for Hawaii, and a ROFR that will provide a degree of predictability, HT is best positioned to provide advanced broadband communications services to high-cost areas throughout the state.

D. The Record Confirms That Satellite Service Is Not Adequate For Hawaii

The State of Hawaii observes that some of the proposed solutions for very high-cost areas, such as satellite service as an alternative to terrestrial fixed broadband service, “will not work for most consumers in Hawaii.”²⁷ HT has opposed satellite and other “alternative” solutions as unworkable for Hawaii.²⁸ The State agrees, arguing that direct-to-home (“DTH”) satellite-based broadband service:

- Is unlikely to achieve satisfactory data transmission rates;
- Suffers from significant signal latency;
- Frequently does not even cover Hawaii, or requires a larger dish (in excess of one meter) that is more expensive for consumers;

²⁶ Comments of General Communication, Inc. in WC Docket No. 10-90 *et al.*, 14 (filed Aug. 24, 2011) (“GCI Comments”).

²⁷ State of Hawaii Comments at 4.

²⁸ HT Comments at 10-12. Alaska carriers similarly have criticized such solutions for Alaska. See GCI Comments at 21-23; ACS comments at 17, n.11.

- Is unavailable to many consumers in Hawaii because they cannot achieve the necessary “look” angle due to Hawaii’s mountainous terrain and characteristic dense foliage; and
- Offers no solution to the lack of middle mile capability discussed above.²⁹

Not surprisingly, the Alaska commenters offer many of the same criticisms of satellite DTH service as a broadband solution for their state. For example, GCI notes that Alaska “lacks meaningful [satellite] coverage outside the areas that already have [terrestrial] broadband service.”³⁰ As in Hawaii, the physical location of the state affects the minimum size of the dish, and even the possibility that a customer could “see” a satellite at all.³¹

In short, the Commission should not mandate an inferior technology for the hardest-to-reach areas of the country, but rather should provide support at a level that is sufficient for *all* Americans to have access to comparable services at comparable prices.

E. Wire Centers Are The Appropriate Target Areas For Hawaii CAF

The State of Hawaii supports HT’s proposal to calculate support in a more targeted fashion for the state; rather than calculate support for the entire state as a (non-rural) study area, HT proposes, and the State agrees, that support should be calculated at the wire center level, according to the more detailed cost information available for those discrete locations.³² The State points out that the customers in the single urban center of Honolulu, on Oahu, have access to competitive communications alternatives that are

²⁹ State of Hawaii Comments at 9-10.

³⁰ GCI Comments at 21.

³¹ *Id.* at 22.

³² State of Hawaii Comments at 5.

simply unavailable in the unsubsidized communities of the Neighbor Islands. In at least two ways, this has hurt universal service in Hawaii. First, HT is required to serve the uneconomic areas without any high-cost support. Second, HT is the only provider in the state required to maintain universal voice coverage in high-cost areas of the state even while experiencing substantial erosion of its customer base in lower-cost Honolulu.³³ Targeting support to the specific wire centers where it is needed will both enhance competition and encourage investment in underserved areas.

HT also agrees with the State of Hawaii that the Commission should not allow the presence of an unsubsidized service provider in one location to foreclose CAF support to an adjacent location that may, in fact, be underserved.³⁴ The proposed use of census blocks in particular poses this risk: “Census blocks in Hawaii often straddle developed and extremely remote areas, sometimes including beachfront hotels and inaccessible mountainous communities in the same census block.”³⁵ The fact that a handful of customers in a census block are served by one unsubsidized provider should not preclude CAF for the unserved locations in the same census block. HT believes that wire center boundaries will prove to be a more accurate delineation of service availability in Hawaii.

III. CONCLUSION

HT included in its initial comments a set of narrowly-tailored proposals that, if adopted, would help ensure that FCC policies further the Commission’s goals for universal broadband. There is ample support in the record for a Hawaii-specific policy. HT urges the Commission to establish a special CAF for Hawaii that will target

³³ *Id.* at 6.

³⁴ *Id.* at 7.

³⁵ *Id.* at 8 (discussing the state’s findings gleaned from developing its statewide broadband map).

support to the highest-cost wire centers and provide a ROFR to the ILEC to deploy broadband upon a reasonable schedule. The Commission should not relegate the most remote communities to an inferior technology, but recognize that Hawaii presents unique service challenges that can best be tackled by experienced local service providers. HT appreciates the Commission's thoughtful approach to these issues, and openness to crafting Hawaii-specific solutions for the benefit of all customers, and to achieve the Commission's national universal service goals.

Respectfully submitted,

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